Last page of docket
SHOW PROCEEDINGS AND ORDERS DATE: [04/12/96]

CASE NBR: [95107589] CFX STATUS: [PENDING CONFERENCE]
SHORT TITLE: [Shieh, Liang-Houh]
VERSUS [Krieger, Jerold, et al.] DATE DOCKETED: [012596]
PAGE: [01]

DATE	NOTE	PROCEEDINGS & ORDERS
Jan 23 1996		Petition for writ of certiorari and motion for leave to proceed in forma pauperis filed. (Response due February 24, 1996)
Jan 23 1996		Motion of petitioner for leave to proceed in forma pauperis filed.
Mar 7 1996		DISTRIBUTED. March 22, 1996
Mar 25 1996		REDISTRIBUTED. March 29, 1996
Apr 1 1996		Motion of petitioner for leave to proceed in forma pauperis DENIED. Dissenting opinion by Justice Stevens. Opinion per curiam.

1PP

EDITOR'S NOTE

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(2)

No. 95-7589

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1996

HIGHBERGER, KAKITA, SPENCER & TUNER MAF CT., L. Shieh,

Petitioners,

vs.

Jerold Krieger, et al.,

Respondents.

95-55566 (9th Cir.)
CV-93-07310 KN

Supreme Court, U.S.
FILED
JAN 23 1996
OFFICE OF THE CLERK

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MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The petitioner, L. Shieh, asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed in forma pauperis. Petitioner has previously been granted leave to so proceed in L. Shieh v. David Ebershoff, et al, S 038440 by the Supreme Court of the State of California. Petitioner's affidavit/declaration in support of this motion is attached hereto.

ORIGINAL 7 pp

(9)

Dated: January 19, 1996

Respectfully submitted,

Shieh Liang-Houh

FIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

I, L. Shieh, am the petitioner in the above-entitled case. In support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

I further swear that the responses I have made to the questions and instructions below relating to my ability to pay the cost of proceeding in this Court are true.

1. Are you presently employed? Yes ___ No xx

a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.

b. If the answer is no, state the date of your last employment and the amount of salary or wages per month which you received. 4/89; approximately $7,500.00 per month (gross income)

2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other sources? Yes ___ No xx

a. If the answer is yes, describe each source of income and state the amount received from each during the past twelve months.

3. Do you own any cash or have a checking or savings account? Yes ___ No xx

a. If the answer is yes, state the total value of the items owned.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing) Yes ___ No xx

a. If the answer is yes, describe the property and state its approximate value.

5. List the persons who are dependent upon you for support and state your relationship to those persons.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on: January 19, 1996.

L. Shieh
(Signature)

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1996

HIGHBERGER, KAKITA, SPENCER & TUNER MAF CT., L. Shieh,

Petitioners,

vs.

Jerold Krieger, Paul Turner, et al.,

Respondents.

PETITIONER FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEAL FOR THE NINTH CIRCUIT, THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, THE CALIFORNIA COURT OF APPEALS AND CALIFORNIA SUPERIOR COURT

PETITION FOR WRIT OF CERTIORARI

Law Offices of Shieh Liang-Houh
Attorneys for Petitioners
P. O. Box 84-453
Taipei, Taiwan
(011-886-2) 394-0530

95-55566
CV93-7310 KN (SHx)

QUESTIONS PRESENTED

1. Whether the residents in Taiwan are entitled to the service of the order to show cause from the California Court of Appeal, the service of motion for summary judgment from opposing counsel, and the service of the orders from the United States courts, as required by the due process of law of the U.S. Constitution, by the Treaty of Friendship, Commerce And Navigation between the Republic of China and the United States of American, by the provisions of the Hague Convention and/or by the Law Governing Extension of Assistance To Foreign Court in Taiwan, which has given rise to the disagreements among the lower courts?

2. Whether service of the orders to show cause, of the motion for summary judgments and of the orders of the United States courts upon the residents in Taiwan has to comply with the provisions of the Hague Convention, the Guidelines of the State Department and/or the laws in Taiwan, namely the Law Governing the Extension of Assistance To The Foreign Courts, which has given rise to the disagreements among the lower courts?

3. Whether the USDC and the 9th Cir. should stay this action when the criminal indictment and civil actions against the judges and the defendants are pending before Taipei court pursuant to doctrines of comity and abstention.

4. Whether the unserved motion for summary judgment must be denied where there are many triable facts concerning the criminal and judicial misconduct of the California judges and where there are many discovery pending, which has given rise to the disagreements among the lower courts?

5. Whether the doctrine of res judicata bars petitioners from filing a lawsuit for declaratory and injunctive relief against California judges when there was absolutely no service of the order to show cause ("OSC") by the California Court of Appeal ("CCA") upon the residents of Taiwan, the CCA has no original jurisdiction to issue such OSC, there was absolutely no opportunity to litigate (the judges were indicted for bribery, corruption and collusion), and the parties and issues are different, which has given rise the disagreements among the lower courts?

6. Whether, after California judges were indicted for bribery, corruption and collusion, petitioners have right to file, or to seek a leave of the court to file, the amended complaint and to seek for discovery of such criminal and judicial misconduct, which has given rise to the disagreement among the lower courts?

ALL PARTIES TO THE PROCEEDING

PETITIONERS:

Highberger, Kakita, Spencer & Turner MAF Corp[1]., is currently known as "Highberger, Kakita, Spencer, Turner, Millard, Kaufman, Coskey, Davies, Gadbois & Kenyon MAF Ct[2].", and is formerly known as "Say & Say Import-Export Corp." This corporation has no parent and no subsidiary. This company is "controlled solely" by defendants Spencer and Highberger, based on the implication of defendant Spencer's own published decisions.

L. Shieh is an individual.

RESPONDENTS:

Defendants Edward Y. Kakita, Vanio Hassan Spencer, judge Ortega, and judge Miriam A. Vogel are purported judges of California, acting as "puppets" of the large, wealthy and influential Caucasian law firms, as described below by their own admission.

---

[1] This name is used since October, 1994, through the unanimous consent of the meetings of shareholder and director, and through the filing of the first amended and restated articles of incorporation with the secretary of state.

[2] This name is used since April 21, 1995, through the unanimous consent of the meetings of shareholder and director, and through the filing of the second amended and restated articles of incorporation with the secretary of state.

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1996

HIGHBERGER, KAKITA, SPENCER & TUNER MAF CT., L. Shieh,

Petitioners,

vs.

Jerold Krieger, Paul Turner, et al.,

Respondents.

PETITIONER FOR WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEAL FOR THE NINTH CIRCUIT AND THE

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF

CALIFORNIA AND ALL LEVELS OF THE CALIFORNIA COURTS

To the Honorable William Rehnquist the Chief Justice and Associate Justices of the Supreme Court of the United States:

Petitioners Highberger, Kakita, Spencer & Turner MAF Ct., and L. Shieh, respectfully pray that a writ of certiorari issue to review the judgments and opinions of the United States Court of Appeals for the Ninth Circuit, the United States District Court for the Central District of California, the California Court of Appeals and the California Superior Court

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OPINION BELOW

1. The decision of the Court of Appeal for the Ninth Circuit, dated October 27, 1995 is attached in Petitioners' Appendix A.

2. The decision of the district court, dated March 3, 1995, is attached in Petitioners' Appendix B.

JURISDICTION

The Court of Appeals' opinion in this matter was filed on October 27, 1995. Appendix A. This Court's jurisdiction is invoked under Title 28, U.S.C. §§1254 (1) and 2403 (a), and under the Rules of the Supreme Court of the United States ("USSC"), Rules 10.1 (a) (b) and (c), and 29.4 (b), et al.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendments I, VI, and XIV to, and Article VI, Section II of, the United States Constitution, as well as the Article VI, Section 4 of the Treaty of Friendship, Commerce And Navigation Between the Republic of China and the United States of America are attached hereto as Appendices D and E and are set forth below:

1. First Amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the

people peaceably to assemble, and to petition the government for a redress of grievance."

2. Sixth Amendment: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

3. Fourteenth Amendment: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privilege or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

4. Article VI, Section 2: "all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

5. Article VI, Section 4 of the Treaty of Friendship, Commerce And Navigation Between the Republic of China and the United States of America: "The nationals, corporations and associations of either High Contracting Party shall enjoy freedom of access to the courts of justice and to administrative tribunals and agencies in the territories of the other High Contracting Party, in all degrees of jurisdiction established by law, both in pursuit and in defense of their rights; shall be at liberty to choose and employ lawyers, interpreters and representatives in the prosecution and defense of their rights before such courts, tribunals and agencies; and shall be permitted to exercise all these rights and privileges, in conformity with the applicable laws and regulations, if any, which are or may hereafter be enforced by the duly constituted authorities, on terms no less favorable than the terms which are or may hereafter be accorded to the nationals, corporations and associations of such other High Contracting Party and no less favorable than are or may hereafter be accorded to the nationals, corporations and associations of any third country. Moreover, corporations and associations of either High Contracting Party shall be permitted to exercise the rights and privileges accorded by the preceding sentence upon the filing, at any time prior to appearance before such courts, tribunals or agencies, of reasonable particulars required by the laws and regulations of such other High Contracting party without any requirement of registration or domestication."

6. 9th Cir. R. 3-6: "At any time prior to the completion of briefing in a civil appeal if the court determines:

... (b) that it is manifest that the questions on which the decision in the appeal depends are so insubstantial as not to justify further proceedings the court may, after affording the parties an opportunity to show cause, issue an appropriate dispositive order."

STATEMENT OF CASE

I. BEFORE THE CALIFORNIA JUDGES, PETITIONERS AND THEIR LAWYERS ARE LIKE "A JEW IN THE NAZI GERMANY"

1. Petitioners Highberger, Kakita, Spencer & Turner MAF Corp. ("HKST") and L. Shieh ("Dr. Shieh") are residents of Taiwan. At all relevant times, they are always represented by lawyers. They have never been in pro per in any period of time. It is absolutely imposible to be a "co-counsel" with their respective lawyers as a matter of fact, and as a matter of law.

2. While both petitioners were in Taiwan, the California Court of Appeal ("CCA") issued three orders to show causes ("OSC") to petitioners without serving upon petitioners in Taiwan[3]. Due to the lack of knowledge of the OSC, Petitioners did not retain any counsel to respond to that OSC, while issued without original jurisdiction. Because the corruptive judges Spencer and Turner had accepted substantial bribes, pursuant to HKST's correspondences with Gibson, Dunn & Cructure and O"Melveny & Myers, they had made up their minds to declare

[3] At all relevant times, petitioners have never authorized anyone to accept the orders to show cause or the summons and complaint on their behalves.

petitioners vexatious litigants even though these judges have never seen petitioners in their lives and even though petitioners are residents in Taiwan and cannot possibly be in pro per in the U.S.

3. With the permanent, unlimited, unconditional and absolute pre-filing orders, petitioners and their lawyers are prohibited from filing any papers in any California courts at all. There was absolutely no opportunity to litigate before these corruptive judges.

4. Petitioners and their lawyers in both federal and state courts in California are "like a Jew in the Nazi Germany," said Richard R. Hopkins, a Caucasian lawyer. See Transcript of Proceeding in Highberger, Kakita, Spencer & Turner MAF Corp., et al v. Highberger, et al, BC 059833 ("Chris" case), and Highberger, Kakita, Spencer & Turner MAF Corp., et al v. Castellano, et al, BC 054981 ("Cast" case), in 1994.

5. MR. HOPKINS: "I've been in practice for 19 years and I have never, never been treated the way I'm being treated in this case... every motion or every opposition made by Gibson & Dunn is the gospel truth and everything that I say is not." ID.

6. "As I stated the judges in the Los Angeles and Orange County areas are biased and discriminatory against Dr. Shieh. Their wilful deprivation of Dr. Shieh's constitutional and federal rights were/are on the grounds of Dr. Shieh's race, color, national origin and

religion." Petitioners' Caucasian lawyer's declaration[4], dated May 13, 1995, ¶10.

7. Almost all, if not all, Los Angeles and Orange state judges, and policemen, and certain federal judges in Los Angeles are "controlled solely by" Gibson, Dunn & Cructure ("GDC") and O'Melvey & Myers ("OMM").

II. AT LEAST THREE CALIFORNIA JUDGES ADMITTED THAT THEY ARE MERELY PUPPETS OF THEIR BOSSES

1. Honorable Phillip E. Cox admitted: "This is an unusual case where they've extended it [vexatious litigant statute] to them when he has an attorney representing him. As I tell you, they're my bosses, and I can't overrule the[m]." See TP in Highberger, Kakita, Spencer & Turner MAF Corp, et al v. David, et al in Orange County Superior Court ("SC"), case no. 70 64 39.

2. Kaufman conspired with Highberger, et al to kidnap Petitioner in the Chinese New Year for seven days and to extort over $300,000.00 in February, 1994. Kaufman indirectly admitted that he was acting as a "collection agency" and is a "real party in interest" in his purported proceeding. See TP February 10, 14, 15, 16 and 17, 1994. However, in his last day of his court, Kaufman finally admitted that the California Vexatious Litigant statute, CCP §§391 et seq., "was for pro pers, and since the man [Petitioner] wasn't in pro per it did seem odd

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[4] To avoid further extortion by defendants, the secret witness' name is kept secret until this court orders otherwise.

to me that motion was ever granted", "obviously my mind does question things, but things that happen, things that happen, I can't change them, so I'll let it go." Vol. 4 Request For Judicial Notice ("RJN") at 672-673 filed in this action.

3. KAUFMAN ADMITTED THAT:

1). "I'm not about to open a gate that has been defiantly -- or not defiantly, but absolutely closed to him by trial courts and the Court of Appeal. So he's been foreclosed out." Transcript of proceeding in Highberger, Kakita, Specner & Turner MAF Ct., et al v. Castellano, et al, BC 054981 ("Cast" case) and Highberger, Kakita, Specner & Turner MAF Ct., et al v. Highberger, et al, BC 059833 ("Chris" case) ("TP"), 2/94.

2). "... no, you're [plaintiffs' attorneys are] not in the position to give notice because you can't file anything." TP 2/10/94, at 23, lines 1-3.

3). "The present order with respect to the plaintiff or his attorneys being unable to file any documents." TP, 2/14/94, at 2, line 18-20. See RJN, no. 36, 1).

4). "he was not to file any new documents." (TP, 3/31/94, at 16, line 25-26).

5). "he is not authorized to file anything." (TP, 3/31/94, at 35, line 18-21).

4. In more than ten decisions, the corrupted and colluded judges of 9th Cir. always held the following in each and every of

petitioner's and petitioner's clients' cases (even if petitioner's clients are represented by lawyers): "No motion for reconsideration, rehearing, clarification, stay of the mandate, or any other submissions shall be filed or entertained" without payment of the judges of the 9th Cir. and the California courts. Appendix A.

III. THE HISTORY OF BRIBERY, CORRUPTION, COLLUSION, PERJURY, FORGERY OF THE CALIFORNIA JUDGES AND FEDERAL JUDGES IN CALIFORNIA

1. Before, on and after August 12, 1993, judges Spencer, et al., and their conspirators extorted petitioner to pay them bribes for at least $260,000.00.

2. Before, on and after January 31, 1994, judges Spencer, and their conspirators extorted petitioner to pay them bribes for $154,000.00.

3. Pursuant to the criminal conspiracy between judges Armstrong, Turner, et al. in December, 1994[5], they conspired with Kaufman and Highberger to kidnapped Petitioner for seven days from February 10, 1994 (Chinese New Year) through February 16, 1994. All of them extorted over $300,000.00 and robbed petitioner in the same period of time.

4. In April, 1994, the Crime Family attempted to kidnapped petitioner and all of his family members. The Crime Family admitted in

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[5] On or about December 8, 1993, judge Armastrong or another judge in the same division publicly spoke that he would kidnapped petitioner for ransoms. Kaufman and Highberger then carried out his conspiracy scheme.

their declaration that they had forcibly broken the house of petitioner and entered into the house for at least twice. Many files, documents and valuable items were stolen.

5. In or about early May 1994, the Crime Family extorted $500,000.00 from petitioner.

6. In or about May, 1994, Patricia L. Grisinger of the State Bar of California extorted petitioner to pay $1 million to the Crime Family, saying that she was acting on behalf of the Crime Family, otherwise she would put petitioner in an "inactive enrollment." She also delivered the "inactive enrollment form" to petitioner's house for petitioner's signature.

7. In or about October, 1994, Cydney Tabor Batchelor and Donald Robert Steedman of the State Bar of California further extorted $1 million from petitioner. They specifically admitted that they were acting on behalf of David Eisen, William F. Highberger and other members of the Crime Family.

8. In November, 1994, William F. Highberger, Andrew Castellano and Barry Russell admitted that they had conspired with Cydney Tabor Batchelor and Donald Robert Steedman of the State Bar of California to secretly put petitioner in an involuntary inactive enrollment and to secretly enter default against petitioner without legally serving any application or complaint upon petitioner.

9. In or about November 1994, the Offices of Prosecutors commenced the criminal investigation against all members of the Crime Family. On or about August 2, 1995, William F. Highberger, C. Bernard Kaufman, V. Spencer, Andrew Castellano and others were indicted for kidnaping for ransoms, extortion, forgery, et al. Appendix E. They are facing sentencing now. Other members of the Crime Family are prosecuted.

10. Petitioner is a member of bars in many states, in federal courts and in Taiwan for over 20 years in good standing. He has never committed any crime. Nor is there any criminal charge pending against him. In his over 20 years law practice, no client has ever complained against him for any kind of professional misconduct.

11. On October 27, 1995, the judges, who are also prosecuted for their crimes, summarily affirmed the decision of the USDC in this action, and also summarily affirmed and summarily dismissed the other two pending appeals without reviewing the OB and ER pursuant to their criminal corruption and collusion scheme.[6]

12. The warrants for their arrest will be issued if they failed to appear for the sentencing and the prosecution. Criminal supplemental civil complaints and independent civil complaints for declaratory and inductive relief as well as for damages were also filed against respondent and members of the Crime Family.

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[6] The twc appeals are 95-790 (Ebershoff case) and 95-55723. Accordingly, three petitions for certiorari are filed with this court on January 8, 1996 at the same time.

REASONS FOR GRANTING THE WRIT

Certiorari should be granted.

This Petition presents an issue for this court to resolve the issue of the first impression as to what method of service should be used for the residents of Taiwan when the lower courts held that (1) Taiwan is an independent country, (2) Taiwan is part of the Republic of China and (3) Taiwan is part of the People's Republic of China.

This Petition also presents issues for this court to clarify whether Judges Robert R. Beezer, David R. Thompson and Thomas G. Nelson of the Ninth Circuit, who and their conspirators are indicted and prosecuted for felonies for the conspiracy to commit corruption, collusion, forgery, illegal competition and violation of anti-trust law, among other crimes, (1) have "so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, so as call for an exercise of this Court's supervisory power," and (2) have "decided an important federal question in a way that conflict with relevant decisions of this Court" where they refused to disqualify themselves, covered up their and their conspirators' crimes, continued to be "in league with those who were bent upon abrogation of federally protected right," and summarily affirmed a lower court's decision (through another corruption and collusion) which dismissed Petitioner's $300 million case without reviewing the opening brief and reply brief on the merits in furtherance

of their criminal conspiracy, and such criminal and judicial misconduct are specifically prohibited by the holdings of Pulliam v. Allen, 466 U.S. 522, 539, 104 S. Ct 1970, 1979 (1984), and Mitchum v. Foster, 407 U.S. 225, 240, 92 S. Ct. 2151, 2161 (1972) (holdings that judges are not allowed to be "in league with those who were bent upon abrogation of federally protected rights.")

I. THE RESIDENTS OF TAIWAN ARE ENTITLED TO SERVICE

Under the FCN Treaty and the due process right of the U.S. Constitution, Petitioners have rights to notice from California and federal courts and from opposing parties. "[T]here is no time limit on a collateral attack on a void judgment (other than possibly the equitable defense of laches)." See Weil & Brown, California Practice Guide, Civil Procedure Before Trial ¶ 5:490 (hereinafter cited as "W&B" by paragraph no.).

In Molloy v. Wilson 878 F2d. 313 (9th Cir., 1989), the court held that Petitioners' failure to file the opposition papers to motion for summary judgment did not deprive them of their due process rights to notice of dismissal, and the one year time limit is not applicable to the motion to vacate the dismissal.

In Radack v. Norwegian America Line Agency, Inc., 318 F. 2d 538, 543 (2d. Cir., 1963), the court held that "if notice of the judgment was not sent, the judge has the power, in the exercise of a sound discretion, to grant relief under Rule 60(b)(6)" and one year time

limit is not applicable).

Here, neither the motion for summary judgment nor the order of the USDC was ever served upon petitioners in Taiwan. The FCN Treaty and the due process rights of petitioners were violated. It should be noted that the trial judge David Kenyon was indicted for his criminal actions. Appendix C.

Article VI, Section 4 of the Treaty of Friendship, Commerce And Navigation Between the Republic of China and the United States of America ("FCN Treaty"): "The nationals, corporations and associations of either High Contracting Party shall enjoy freedom of access to the courts of justice and to administrative tribunals and agencies in the territories of the other High Contracting Party, in all degrees of jurisdiction established by law, both in pursuit and in defense of their rights; shall be at liberty to choose and employ lawyers, interpreters and representatives in the prosecution and defense of their rights before such courts, tribunals and agencies; and shall be permitted to exercise all these rights and privileges, in conformity with the applicable laws and regulations, if any, which are or may hereafter be enforced by the duly constituted authorities, on terms no less favorable than the terms which are or may hereafter be accorded to the nationals, corporations and associations of such other High Contracting Party and no less favorable than are or may hereafter be accorded to the nationals, corporations and associations of any third country. Moreover, corporations and associations of either High Contracting Party shall be permitted to exercise the rights and

privileges accorded by the preceding sentence upon the filing, at any time prior to appearance before such courts, tribunals or agencies, of reasonable particulars required by the laws and regulations of such other High Contracting party without any requirement of registration or domestication."

The decisions of the USDC and the 9th Cir. are unconstitutional.

II. THE SERVICE OF ORDERS TO SHOW CAUSES UPON THE RESIDENTS OF TAIWAN MUST COMPLY WITH THE PROVISIONS OF THE HAGUE CONVENTION OR AT LEAST THE LAWS IN TAIWAN

A. ATLANTIC CASE

In Atlantic Mutual Insurance Company, et al v. Northwest Airlines, Inc. 796 F. Supp. 1188 (E.D. Wis. 1992), the court held that "Taiwan was part of the People's Republic of China [PRC] and thus was a party to" the Hague Convention.

"A convention enjoys the status of a treaty. (See American Trust Company v. Smyth (1957) 247 F. 2d. 149; Garcia v. Pan American Airways (1946) 295 N. Y. 852, 67 N. E.2d 257; cert. den. 329 U.S. 741, 67 S. Ct 79, 91 L. ED. 640." Dr. Ing. H.C.F. Porsche v. Superior Court, 177 C. R. 155, 156, fn. 1 (3d. Dist., 1981). "Noncompliance with the service of process requirements of the Hague Convention" voids the

service and the order dismissing the cases. Id. That is another ground for a motion for relief or motion for reconsideration.

Here, the subsequent criminal indictment and criminal prosecution of the federal judge David Kenyon, Beezer, Thompson, and T. G. Nelson, as well as state judges Vaino Hassan Spencer, Edward Y. Kakita, Paul A. Turner, Orville A. Armastrong, et al for bribery, kidnapping for ransoms and bribes, corruption, collusion, perjury, forgery, et al constitute a "new argument" and/or "new fact" for motion for reconsideration of the unserved motion for summary judgment and the unserved order of dismissal with prejudice. In Harsco Corp. v. Zlotnicki (3d., Cir., 1985) 779 F. 2d 906, the court held that the court must not to refuse to consider the subsequent evidence not available prior to the summary judgment).

"By virtue of the Supremacy Clause, U.S. Const., Art. VI, the Convention preempts inconsistent methods of service prescribed by state law in all cases to which it applies." Volkswagenwerk Aktiengesellschaft v. Schlunk (1988) 486 US 694, 108 S. Ct. 2104. "The Hague Convention provisions are mandatory, so that failure to comply voids the attempt service." Id, 486 U.S. at 698, 108 S.Ct. 2108.

Failure to comply with the Hague Convention ("HC") procedures void the service, even though it was made in compliance with California law, and even though the SAD[7] has actual notice of the lawsuit. Dr. Ing.

[7] In this case, Petitioners have no actual notice.

H.C.F. Porsche, A.G. v. Sup. Ct (1981) 123 CA3d 755, 177 CR 155.

The Bureau of the International Judicial Assistance ("BIJA") of the Ministry of Justice of the PRC determined that the services must be done through the BIJA as the Central Authority, and that it would comply with the Hague Convention to effect such services upon peoples and entities in Taiwan.

Neither the motion for summary judgment, nor the order of the USDC was served upon petitioners through HC.

B. N.Y. CHINESE TV PROGRAM CASE

In New York Chinese TV Programs, Inc. v. U.E. Enterprises, Inc., 954 F. 2d 847 (2d Cir., 1992), the court recognized that the Treaty of Friendship, Commerce And Navigation Between the Republic of China and the United States of America ("FCN Treaty"), is still valid and binding upon the United States of America ("USA").

The FCN Treaty, as a Supremacy Law of Land, mandates the USA to let the nationals[8] of the ROC not to "receive treatment with respect to such rights and privileges less favorable than the treatment which is or may hereafter be accorded to the nationals of any third party." Article II, Section 3.

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[8] The term "nationals" include the corporations. FCN Treaty, Article VI. Section 1.

The **FCN Treaty, Article VI, Section 2** provides that: "The nationals, corporations and associations of either High Contracting Party ... shall be permitted to exercise all these rights and privileges, ... on terms no less favorable than the terms which are or may hereafter be accorded to the nationals, corporations and associations of such other High Contracting Party and no less favorable than are or may hereafter be accorded to the nationals, corporations and associations of any third country."

Article VI, Section 4, and Article VII of the FCN Treaty clearly state that SAD "shall enjoy freedom of access to the court of justice" and shall be treated by the USA as the best without "discriminatory treatment." Id., Article XV. The FCN Treaty expressly state that SAD shall enjoy the provisions and protection of the HC, because all members of the HC receive such protection, SAD shall not receive "rights and privileges less favorable than the treatment which is or may hereafter be accorded to the nationals of any third party." The same languages repeated all over the Treaty. See e.g., Article II, Section 3. Applying the FCN Treaty is the same as applying the HC because the FCN Treaty mandates the same result. SAD must be treated no less favorable than any third party, which is a member of the HC. Thus, FCN Treaty mandates the result of application of the HC.

C. THE GUIDELINES OF THE STATE DEPARTMENT

The State Department announced the Guidelines of the State

Department, which requires that all services must comply with the "Law Governing the Extension of Assistance to the Foreign Court" ("Extension"), which is in the essence the same as those in the HC. There is a Central Authority ("CA") in Taiwan, as well, to accept and effect the service of summons and complaint and the service of discovery.

No doubt, again, TPP failed to comply with the Extension.

D. TAIWAN'S STATUS

This court must unify the conflicts among the lower courts in order to determine the status of Taiwan. The method of service is different if the status of Taiwan is different as the laws are different.

III. THE PENDING ACTION IN TAIWAN MANDATE USDC TO STAY THIS ACTION

A. Comity

In ALLSTATE LIFE INSURANCE CO. v. LINTER GROUP LTD., 994 F.2d 996 (2nd Cir. 1993), United States District court for the Southern District of New York dismissed securities actions on the grounds of comity and forum non conveniens in recognition of liquidation proceedings pending in Australia. The Court of Appeals, Second Cir. affirmed and held: (1) that actions were properly dismissed on ground of

comity to extent that they were asserted against issuer, related corporations, and related individuals, and (2) that action against banks was properly dismissed on ground of forum non conveniens.

In Lindner Fund, Inc. v. Polly Peck, 143 BR 807 (S.D. N.Y., 1992), the investors brought federal securities suit against multinational conglomerate, which was presently attempting to reorganize under the United Kingdom Insolvency Act. On conglomerate's motion to dismiss or to stay action on grounds of comity, the District Court, Keenan, J., held that suit was required to be dismissed on grounds of comity, in light of related reorganization proceedings in United Kingdom.

Here, the much more broader criminal and civil actions are pending in Taiwan. The Taipei action will resolve all disputes between the plaintiffs and defendants once and for all. Under the doctrine of comity, this action must be stayed pending on the final resolution of the Taipei actions.

B. Abstention

In In re SPANISH CAY CO. LIMITED, 161 D.R. 715 (Butcy.S.D. Fla. 1993), on motion to dismiss Chapter 11 petition or to abstain from exercising jurisdiction, and for relief from automatic stay, the Bankruptcy Court, Robert A. Mark, J., held that: abstention was appropriate in involuntary case commenced against alleged debtor which

was Bahamian corporation with principle asset being real property located in Bahamas, and thus, secured creditor would be granted relief from stay to commence insolvency proceeding in Bahamas, and upon commencement of such proceedings, Bankruptcy Court would abstain from exercising its jurisdiction in dismissed case.

Petitioners are over 7,000 miles away from Los Angeles County. English is their third language. Over 100 witnesses are in Taiwan. The litigation costs are much much low than these in the United States. The legal system in Taiwan is completely different from that in the U.S. The judgment in the U.S. will not be enforceable in Taiwan. The best resolution would be for the plaintiff to file the counterclaim in Taipei District Court before it is too late. The only reason that Defendants and the judges have not received the summons and complaint from the Taipei District Court is that the service is done through diplomatic channel and that it will take approximately three to four months to reach Defendants and the judges.

IV. CRIMINAL DEFENDANTS' UNSERVED MOTIONS FOR SUMMARY JUDGMENTS MUST BE DENIED

A. Standard of Review.

Appeals from orders granting summary judgment are reviewed de novo. Jackson v. Bank of Hawaii (9th Cir. 1990) 902 F.2d 1385, 1389[9].

[9] Summary judgment is granted if, upon a review of the materials properly before the court, "there is no genuine issue as to any material of law." Federal Rules of Civil Procedure [F.R.C.P.], Rule 56(c). The party moving for summary judgment bears the burden of proving the absence of any genuine issue of material

B. Burden of Proof[10]

The burden of proof on a motion for summary judgment is governed by federal standards. [Anderson v. Liberty Lobby, Inc., 477 US at 248-250, 106 S.Ct. at 2511[11]]

Initially, it is the moving party's burden to establish that there is "no genuine issue of material fact and that the moving party is

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fact. HOPKINS V. Andaya (9th Cir. 1992) 958 F.2d 881, 884. The court must view the evidence in a light most favorable to the non-moving party. Id. All doubts are resolved against the movant, and the opposing party is given the benefit of all favorable inferences that can be drawn from the evidence. E.g., Adickes v. S.H. Kress & Co. (1970) 398 U.S. 144. Existence of a genuine issue of material fact requires denial of a motion for summary judgment. Anderson v. Liberty Lobby (1986) 477 U.S. 242, 248, 106 S.Ct. 2505, 2510.

"Complaint should not be dismissed merely because a plaintiff's allegations do not support the particular theory he advances, for the court is under a duty to examine the complaint to determine if the allegations provide for relief on any possible theory." Bonner v. Circuit Court (8th Cir., 1975) 526 F.2d 1331, 1334 (Cert. denied March 1, 1976), citing Bramlet v. Wilson (8th cir., 1974) 495 F.2d 714, 716.

[10] The party moving for summary judgment bears the burden of proving the absence of any genuine issue of material fact. HOPKINS V. Andays (9th Cir. 1992) 958 F.2d 881, 884. The court must view the evidence in a light most favorable to the non-moving party. Id. All doubts are resolved against the movant, and the opposing party is given the benefit of all favorable inferences that can be drawn from the evidence. E.g., Adickes v. S.H. Kress & Co. (1970) 398 U.S. 144. Existence of a genuine issue of material fact requires denial of a motion for summary judgment. Anderson V. Liberty Lobby (1986) 477 U.S. 242, 248 106 S. Ct. 2505, 2510.

[11] Where the defendant is the party moving for summary judgment, its burden is:

* To demonstrate affirmatively (by admissible evidence) that there is no triable issue of fact as to each element of whatever affirmative defenses it has asserted, so that it is entitled to judgment as a matter of law; or

* To demonstrate lack of any genuine issue of material fact as to plaintiff's claims. To do so, defendant must come forward with portions of the file and, where appropriate, declarations that demonstrate the absence of any real issue of fact as to one or more elements essential to support such claims. [See Wilson v. City of Zanesville (6th Cir. 1992) 954 F2d 349, 351]

entitled to judgment as a matter of law.: [FRCP 56(c); British Airways Board v. Boeing Co. (9th Cir. 1978) 585 F2d 946, 954[12]].

The motion for leave to file the amended complaint and the amended complaint demonstrate that there are many additional defendants, such as officers Defendants, Bar Defendants, USDC Defendants and USBC Defendants[13]. Depositions may be used on summary judgment motions even against a party who had not been joined at the time the depositions were taken. Although inadmissible as a deposition against that party (because no opportunity to cross-examine), the deposition transcript may be

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[12] Thus, the moving party must show there are no triable issues of fact as to matters upon which it has the burden of proof at trial: "Rule 56(c) requires the moving party to show not only the absence of a disputed issue of fact but also that he is entitled to judgment as a matter of law... (T)herefore, the court must ... consider the burden of proof on the issue and where it will rest at trial... Where the moving party has the burden-the plaintiff on a claim for relief or the defendant on an affirmative defense-his showing must be sufficient for the court to hold that no reasonable trier of fact could find other than for the moving party." [Calderone v. United States (6th Cir. 1986) 799 F2d 254, 259 (emphasis in original), quoting from Schwarzer, Summary Judgment Under the Federal Rules: Defining Genuine Issues of Material Fact (1984) 99 FRD 465, 487-488].

The burden of proof at trial is generally determined by the pleadings. Therefore, on a summary judgment motion, the moving party must generally demonstrate there is no triable issue as to the matters alleged in its own pleadings. [See Calderone v. United States, supra]

The moving party's evidence is judged by the same standard of proof applicable at trial. If a higher-than-normal standard of proof would apply at trial, it also applies on a motion for summary judgment ... necessarily implicates the substantive evidentiary standard of proof that would apply at the trial on the merits." [Anderson v. Liberty Lobby, Inc. (1986) 477 US 242, 106 S.Ct. 2505-2511].

However, defendants have failed to prove any of the above. Shieh Dec. RJN, no. 1. Thus, all material facts are in disputes.

[13] Of course, there are at least 18 causes of action. See MR.

treated as an affidavit by the deponent-i.e., a statement under oath. [Hoover v. Switlik Parachute Co.(9th Cir. 1981) 663 F2d 964,967]

C. Summary Judgment Motion Must Be Denied Or The Hearing Date Must Be Postponed For Plaintiffs' Discovery And For The Prosecutors' Investigation

1. Summary Judgment Motion Must Be Denied

Plaintiffs have presented triable facts. Alternatively, when the opposing party cannot present "facts essential to justify his opposition" to the motion, it may submit an affidavit stating the reasons. The court may either deny summary judgment or grant a continuance for discovery purposes, "or make such further order as is just." [FRCP 56(f)]

2. Hearing Date Must Be Postponed For Plaintiffs' Discovery

As[14] with a motion for summary judgment, the court

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[14] To obtain postponement for further discovery, plaintiff's declaration have shown the following:

- Facts establishing a likelihood that controverting evidence may exist as to a material fact;
- The specific reasons why such evidence cannot be presented at the present time; and
- The steps or procedures which the plaintiffs intend to utilize to obtain such evidence. [FRCP 56(f); VISA v. Bankcard Holders (9th Cir. 1986) 784 F2d 1472; and see Terrell v. Brewer (9th Cir. 1991) 935 F2d 1015, 1018]

As with normal Rule 56 motions, the hearing may be postponed if necessary to allow the opposing party time to conduct discovery to develop facts in opposition to the motion. [FRCP 56(F); Grove v. Mead School Dist. No. 354 (9th Cir. 1985) 753 F2d 1528, 1532]

has discretion to defer ruling on the motion if discovery is shown to be necessary to respond to the other parties' factual showing. [See FRCP 56(f)[15]]

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[15] Summary judgment may not be granted until the court first determines the merits of the opposing party's request for continuance under Rule 56(f). [Garrett v. San Francisco (9th Cir. 1987) 818 F2d 1515, 1518-1519]

Some cases permit the showing to be made in other ways- e.g., by a motion for further discovery. [Garrett v. San Francisco, supra, 818 F2d at 1518]

Although the matter is discretionary, a Rule 56(f) application should be granted where the party opposing summary judgment "makes a timely application which specifically identifies relevant information, and where there is some basis for believing that the information sought actually exists." [Church of Scientology of San Francisco v. Internal Revenue Service (9th Cir. 1993) 991 F2d 560, 562]

In suits under the Freedom of Information Act (5 USC §552), plaintiffs may need discovery to establish whether the government has made an adequate search. Therefore, unless sensitive government information is sought, it is an abuse of discretion to deny plaintiffs' Rule 56(f) request prior to granting summary judgment against them. [Church of Scientology of San Francisco v. Internal Revenue Service, supra, 991 F2d at 562]

JUDGE KAKITA violated the plaintiffs' civil rights by denying them access to his court by declarations of Vexatious Litigates and imposing bonds of over $46 million in a monetary amount that was impossible to meet. "{T}he right to the access to the courts ... assures that no person will be denied the opportunity to present to the judiciary allegations concerning violations of fundamental constitutional rights." WOLF v. MC DONNELL 418 U.S. 539, 94 S. Ct. 2963.

A discovery would prove that Defendant Kakita accepted bribery, corrupted and colluded with Highberger, et al. Otherwise, a $46 million bonds would not be imposed, when the maximum is only $50,000 pursuant to California Corporation Code. The same is true with respect to Krieger's $1.05 million security.

"The trial judge properly applied the rule of Stump v. Sparkman, 435 U.S. 349, 98 S.Ct. 1099, 55 L.Ed.2d 331, in holding that the acts perpetrated outside of Judge Harvey's courtroom and not then a part of his judicial functions were undertaken in the "absence of all jurisdiction." These acts involved the defendant's repeated communications to the press" Slyvester HARRIS v. Richard G. HARVEY, 605 F.2d *336 (7th Cir 1979).

"Such acts were not judicial because they were not functions normally performed by a judge, and were not "to the expectations of the parties" in that as to these acts the parties did not deal with him in his judicial capacity." Slyvester HARRIS

3. Hearing Date Must Be Postponed For The Criminal Indictments, Prosecution, and Civil Actions

The following cases support plaintiffs' positions:

"When the defendant Judge Harvey urged the discharge of Lieutenant Harris with racial overtones in out-of-court conversations" Slyvester HARRIS v. Richard G. HARVEY, 605 F.2d *337 (7th Cir 1979)[16].

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v. Richard G. HARVEY, 605 F.2d *336 (7th Cir 1979).

"Next defendant contends that the trial judge erroneously received in evidence Judge Harvey's actions in the John Doe proceeding. However, Judge Gordon carefully instructed the jury that it could consider such evidence only insofar as it bore on defendant's state of mind or motive in his efforts to have the plaintiff removed from his job and to ruin his reputation because of racial prejudice (Tr. 1313-1314). The doctrine of judicial immunity does not require the exclusion of judicial acts from evidence but merely protects a judge from liability for those acts. Under Rule 404(b) of the Federal Rules of Evidence, the defendant's judicial acts were clearly admissible as proof of his racially discriminatory motive." Slyvester HARRIS v. Richard G. HARVEY, 605 F.2d *337 (7th Cir 1979).

"We also agree that nonetheless Judge Harvey was acting under color of law by using the power and prestige of his state office to damage the plaintiff.[FN8]" Slyvester HARRIS v. Richard G. HARVEY, 605 F.2d *337 (7th Cir 1979).

[16] "We agree with the district court that such an intentional tort inspired by racial animus and perpetrated under color of state law constitutes a denial of equal protection. Defendant has produced no code holding that such an action is not cognizable under Section 1983. Here the defendant was action under color of law, and the jury found that his racially motivated actions had injured plaintiff. Such a claim is clearly within the purview of Section 1983." Slyvester HARRIS v. Richard G. HARVEY, 605 F.2d 338 (7th Cir 1979).

"However, as the district court pointed out, plaintiff's claim was not for defamation but for an intentional deprivation of equal protection of the laws" Slyvester HARRIS v. Richard G. HARVEY, 605 F.2d *338 (7th Cir 1979).

"The jury's findings that defendant's actions were not only racially motivated but were of an action-intended-to-injure quality establish that they were neither fair comment nor the type of speech that is protected by the First Amendment." Slyvester HARRIS v. Richard G. HARVEY, 605 F.2d *338 (7th Cir 1979).

V. APPELLANT' MOTION FOR PRELIMINARY INJUNCTION SHOULD BE GRANTED[17]

A. The District Court Should Grant The Preliminary Injunction

The urgency of the circumstances, such as the continuous kidnapping for ransom, continuous pre-bribery orders, and continuous criminal commissions are grounds for preliminary injunction.

"In Kugler v. Helfant, 421 U.S. 117, 95 S.Ct. 1524, 44 L.Ed.2d 15 (1975), Younger was approvingly described:

(T)he Court in Younger left room for federal equitable intervention in a state criminal trial where there is a showing of 'bad faith' or 'harassment' by state officials responsible for the prosecution. . ., where the state law to be applied in the criminal proceeding is 'flagrantly and patently violative of express

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The declaration of plaintiffs VL, the holding of plaintiff and their counsel in contempt solely based on the criminal conspiracy where KKK Kaufman was a judge and Highberger was appointed as prosecutor and plaintiff was deprived the right to effective counsel, the imposition of near $1 million bribery money under the name of the "in pro per attorneys' fees" were made through bribery, corruption and collusion, and without constitutional and legal authorities and are in the 'clear absence of all jurisdiction.'(Bradley v. Fisher,) 13 Wall.(80 U.S.335, 20 L.Ed. 646(1872)),at 351. "Stump v. Sparkman, 435 U.S. 349, 357, 98 S.Ct. 1099, 1105, 55 L.Ed.2d 331 (1978)." Mark HEIMBACH, v. VILLAGE OF LYONS(WAYNE COUNTY, NEW YORK), 597 F.2d *346 (2th Cir. 1979).

"The justice is not immune, however, from suit for injunctive relief and, accordingly, should [citation omitted] not be dismissed from this action." Mark HEIMBACH, v. VILLAGE OF LYONS(WAYNE COUNTY, NEW YORK), 597 F.2d *347 (2th Cir. 1979).

[17] "[T]hey are not immune from equitable and declaratory relief." "[I]t is proper for a federal court to restrain a state criminal prosecution. If jurisdiction to determine whether to grant such extraordinary relief exists and may be exercised, it follows that jurisdiction to decide plaintiffs' other prayers for declaratory and injunctive relief also exists and may be exercised." TIMMERMAN v. BROWN Foard, 528 F.2d 812, 814 (4th Cir. 1975).

constitutional prohibitions,' . . . or where there exist other 'circumstances in which the necessary irreparable injury can be shown even in the absence of the usual prerequisites of had faith and harassment.' Accord: Huffman v. Pursue, Ltd., 420 U.S. 592, 95 S.Ct. 1200, 43 L.Ed.2d 482 (1975); Hicks v. Miranda, 422 U.S. 322, 95 S.Ct. 2281, 45 L.Ed.2d 223 (1975); Doran v. Salem Inn, Inc., 422 U.S. 922, 95 S.Ct. 2561, 45 L.Ed.2d 648 (1975)." TIMMERMAN v. BROWN Foard, 528 F.2d *815 (4th Cir. 1975)[18].

"This legislative history makes evident that Congress clearly conceived that it was altering the relationship between the States and the Nation with respect to the protection of federally created rights; it was concerned that state instrumentalities could not protect those rights; it realized that state officers might, in fact, be antipathetic to the vindication of those rights; and it believed that these failings extended to the state courts." MITCHUM v. FOSTER, 407 U.S. 225, *240, 92 S.Ct. 2151, **2161 (1972)[19].

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[18]"We think that plaintiffs have alleged bad faith and intentionally harassing efforts to deny these rithts, including but not limited to bad faith and harassing efforts to prosecute them. We think that plaintiffs have alleged a case within an exception to the restrictive Younger rule and that the district court not only had jurisdiction to adjudicate their claims for equitable and declaratory relief on the merits, but also should exercise it.

Of course, we reach these conclusions solely on the basis of plaintiffs' allegations. *816 IN the present posture of the case, those allegations are uncontroverted and we think that they require an evidentiary hearing." TIMMERMAN v. BROWN Foard, 528 F.2d *815-*816 (4th Cir. 1975).

[19] "Section 1983 was thus a product of a vast transformation from the concepts of federalism that had prevailed in the late 18th century when the anti-injunction statute was enacted. The very purpose of s 1983 was to interpose the federal courts between the States and the people, as guardians of the people's federal rights--to protect the people from unconstitutional action under color of

state law, 'whether that action be executive, legislative, or judicial.' ... In carrying out that purpose, Congress plainly authorized the federal courts to issue injunctions in s 1983 actions, by expressly authorizing a 'suit in equity' as one of the means of redress. And this Court long ago recognized that federal injunctive relief against a state court proceeding can in some circumstances be essential to prevent great, immediate, and irreparable loss of a person's constitutional rights. ... For these reasons we conclude that, under the *243 criteria established in our previous decisions construing the anti-injunction statute, s 1983 is an Act of Congress that falls within the 'expressly authorized' exception of that law." MITCHUM v. FOSTER, 407 U.S. 225, *242, 92 S.Ct. 2151, **2162 (1972)

"Today we decide only that the District Court in this case was in error in holding that, because of the anti-injunction statute, it was absolutely without power in this s 1983 action to enjoin a proceeding pending in a state court under any circumstances whatsoever." MITCHUM v. FOSTER, 407 U.S. 225, *242, 92 S.Ct. 2151, **2162 (1972).

"The federal anti-injunction statute provides that a federal court 'may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.' An Act of Congress, 42 U.S.S. § 1983, expressly authorizes a 'suit in equity' to redress 'the deprivation,' under color of state law, 'of any rights, privileges, or immunities secured by the Constitution.' MITCHUM v. FOSTER, 407 U.S. 225, 92 S.Ct. 2151 (1972)

"The Court clearly left room for federal injunctive intervention in a pending state court prosecution in certain exceptional circumstances--where irreparable injury is 'both great and immediate,'...where the state law is "flagrantly and patently violative of express constitutional prohibitions,"...or where there is a showing of 'bad faith, harassment, or ... other unusual circumstances that would call for equitable relief.' ... the Court said that '(o)nly in cases of proven harassment or prosecutions undertaken by state officials in bad faith without hope of obtaining a valid conviction and perhaps in other extraordinary circumstances where irreparable injury can be shown is federal injunctive relief against pending *231 state prosecutions appropriate.'" MITCHUM v. FOSTER, 407 U.S. 225, *229, 92 S.Ct. 2151, *2155 (1972)

"It is clear from the legislative debates surrounding passage of s 1983's predecessor that the Act was intended to enforce the provisions of the Fourteenth Amendment 'against State action, ... whether that action be executive, legislative, or judicial.' Ex parte Virginia, 100 U.S. 339, 346, 25 L.Ed. 676 (emphasis supplied). Proponents of the legislation noted that state courts were being used to harass and injure individuals, either because the state courts were powerless to stop deprivations

"We think that the allegations in this case put it squarely within one of the exceptions recognized in Younger where it is proper for a federal court to restrain a state criminal prosecution. If jurisdiction to determine whether to grant such extraordinary relief exists and may be exercised, it follows that jurisdiction to decide plaintiffs' other prayers for declaratory and injunctive relief also exists and may be exercised." TIMMERMAN v. BROWN Foard, 528 F.2d *814 (4th Cir. 1975)[20].

VI. THE APPELLANTS' MOTION TO AMEND THE COMPLAINT MUST BE GRANTED

The trial court should have granted the motion for leave to file the amended complaints based on the new facts[21], new law, new

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or were in league with those who were bent upon abrogation of federally protected rights." MITCHUM v. FOSTER, 407 U.S. 225, *239, 92 S.Ct. 2151-2160 (1972).

[20]"We have no doubt that plaintiffs, even though they are inmates, have some first and fourteenth amendment rights to air their grievances and to have access to judicial procedures to redress them." TIMMERMAN v. BROWN Foard, 528 F.2d *815 (4th Cir. 1975).

"We think that plaintiffs have alleged bad faith and intentionally harassing efforts to deny these rithts, including but not limited to bad faith and harassing efforts to prosecute them. We think that plaintiffs have alleged a case within an exception to the restrictive Younger rule and that the district court not only had jurisdiction to adjudicate their claims for equitable and declaratory relief on the merits, but also should exercise it.

Of course, we reach these conclusions solely on the basis of plaintiffs' allegations. *816 IN the present posture of the case, those allegations are uncontroverted and we think that they require an evidentiary hearing." TIMMERMAN v. BROWN Foard, 528 F.2d *815-*816 (4th Cir. 1975).

[21] See the new facts set forth in the motion for reconsideration, motion for a leave to file the amended complaint and motion for discovery, et al.

causes of actions and new defendants[22] discovered after the original complaint was filed[23].

California courts cannot exercise jurisdiction over foreign nations where to do so would violate an international treaty to which United States is a party. Shoei Kako Co., Ltd. v. Sup. Ct (MAclsaac) (1973) 33 CA3d 808, 819, 109 CR 402, 410.

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[22] The new defendants are all members of MAF Group in 2d dist. and div. 3 of 4th dists, the state officers, the Los Angeles County Jail, the policemen and policewomen, the County of Los Angeles, the United States of American, the officers of the USA, the Commission on the Judicial Performance and its responsible persons, The California State Bar and its responsible persons, the USDC for the Central District of California and three purported judges, the USBC and Barry Russell.

[23] In Krieger case, appellants have never filed any amended complaint. The motion must be granted, since appellants have right to amend without leave of the court. In Kakita case, the motion should be granted as well because of the above reasons. Particurlarly, defendants filed no opposition.

Plaintiffs will proffers an amended pleading that sets forth a different theory of liability, the court may hold the motion in abeyance. [Zaidi v. Ehrlich (5th Cir. 1984) 732 F2d 1218; and see Freeman v. Continental Gin Co. (5th Cir. 1976) 381 F2d 459

As a practical matter, leave to amend is almost always granted by the court. FRCP 15(a) expressly states leave to amend "shall be freely given when justice so requires." [FRCP 15(a); Allen v. Beverly Hills (9th Cir. 1990) 911 F2d 367, 373; Friedlander v. Nims (11th Cir. 1985) 755 F2d 810]

FRCP 15(a) severely restricts the court's discretion to dismiss without leave to amend: "Where a more carefully drafted complaint might state a claim, a plaintiff must be given at least one more chance to amend the complaint before the district court dismisses the action with prejudice." [Bank v. Pitt (11th Cir. 1991) 928 F2d 1108, 1112(emphasis added)]

Such leave should be granted even if plaintiff failed to request it before entry of final judgment. [Bank v. Pitt, supra, 928 F2d at 1112]

The complaint must be construed in the light most favorable to plaintiff. [Russell v. Landrieu (9th Cir. 1980) 621 F2d 1037, 1039]

Federal courts are particularly liberal in construing "unartful pleading" by parties appearing pro se (without counsel). [Hughes v. Rowe (1980) 449 US 5, 9, 101 S.Ct. 173, 176]

Under the doctrine of international comity, the sovereign act of an independent country must be respected and cannot be questioned in a state court. Banco National de Cuba v. Sabbatino, et al (1963) 376 U.S. 398; 84 S.Ct. 923.

The Supreme Court of the United States has long time established the principle that the structures of the Due Process Clauses forbid a state court to exercise personal jurisdiction over a foreign litigant under circumstances that would offend "traditional notions of fair play and substantive justice". One of the fair play and substantive justice under Due Process Clause is to give the party a fair notice and due day in the court. International Shoe Co. v. Washington (1945) 326 U.S. 310,316; 66 S.Ct. 154,158; Asahi Metal Industry Co., Ltd. v. Superior Court (1987) 480 U.S. 102; 107 S.Ct. 1026[24].

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[24] Without service from the opposing counsel, there was no notice. Without a translation of the documents into Chinese language, the due process of law is also violated for lack of "proper" notice. It makes no difference whether one in the ROC knows the English. The law requires that all foreign documents must be translated into the Chinese language when reach the ROC, just as this pleading is filed in English when reach the US. Even if Plaintiff's conspirators know certain degree of Chinese and also know how to lie (the major points), SA (petitioners) still files this pleading in English in comply with the requirements of the international law and the Hague Convention.

It takes at least two weeks to two months for a mail from the US to reach the ROC. This court, all courts of the United States, all parties, and all of the real parties in interest must give SA at least five weeks to respond assuming that they have fully complied with all of the above requirements, because a mail may take two months to reach the ROC, because the ROC does not have library which has the statute and case law concerning this proceedings, and because SA is unable to access to the courts' records due to criminal extortion and kidnapping, among other difficulties.

Under the law in Taiwan, additional 44 days are given for service in the United States. Thus, the request for 5 weeks (35

"It is fundamental to the concept of due process that a defendant be given notice of the existence of a lawsuit and notice of the specific relief which is sought in the complaint served upon him". Marriage of Lippel (1990) 51 C3d 1160,1166; 276 CR 290, 292[25].

Under the Supremacy Clause and the due process of law, the California courts and the American parties must serve their orders, summons, complaints and other papers upon the residents in Taiwan and must give sufficient notice to the residents of Taiwan in accordance with (1) the provision of the Hague Convention ("HC"), since the Atlantic case held that "Taiwan was part of the People's Republic of China and thus" a signatory to the Hague Convention, and (2) The Treaty of Friendship, Commerce, And Navigation Between the Republic of China ("ROC") and the United States of America, pursuant to the holdings of

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days) additional time is reasonable. Petitioners requests this court to take judicial notice to this fact.

[25] Due process of law requires that defendants be afforded "notice" of proceedings involving their interests and an "opportunity" to be heard. Basically, this requires "...notice reasonably calculated, under all the circumstances, to appraise interested parties of pendency of the action and afford them opportunity to present their objections." Mullane v. Central hanover Bank & Trust Co. (1950) 339 US 306, 314, and Mennonite Board of Missions v. Adams (1983) 462 US 791.

The principle of international comity, which is similar to the constitutional principle of "full faith and credit," requires that courts recognize the necessity that litigants in the United States who are seeking to serve persons and entities located in foreign countries must comply with the law of the foreign country, in this case, the Republic of China. Compagnie Francaise D'Assurance Pour Le Commerce Exteriour v. Phillips Petroleum Company 105 F.R.D. 16, 28-29 (S.D.N.Y. 1984) ("American courts should refrain, whenever it is feasible, from ordering a person to engage in activities that would violate the laws of a foreign nation").

Chu v. Republic of China, et al 93-15537 (July 29, 1994, 9th Cir.), and New York Chinese TV Programs, Inc. v. U.E. Enterprises, Inc. 954 F. 2d 847 (1992), where the FCN Treaty requires that all constitutional rights must be extended to Appellants and that Appellants must not be treated "less favorable than" other people in the third country.

Article XXVI 2 of the FCN Treaty provides: "there shall be no arbitrary discrimination by either High Contracting Party against the other High Contracting Party or against the nationals." (Emphasis added). The California courts have always discriminated against Appellants.

VII. RES JUDICATA DOES NOT APPLY TO THIS ACTION

A. THE CALIFORNIA COURT OF APPEAL HAD NO ORIGINAL JURISDICTION TO ISSUE ORDER TO SHOW CAUSE

1. AS AN APPELLATE AND REVIEWING COURT, IT CANNOT DECLARE APPELLANT A VEXATIOUS LITIGANT BECAUSE IT DOES NOT HAVE ORIGINAL JURISDICTION AND BECAUSE NO 391.1 MOTION WAS FILED

Criminal Spencer's ("CS") pre-filing order based on its own motion, declaring Appellant a vexatious litigant and prohibiting his lawyers from filing and maintaining litigation, appeal, writ and petition for review in the California courts is to circumvent Appellant's right of access to the courts and other constitutionally and federally protected rights. California Constitution, Article VI, §§ 11, as revised in 1966, gives the Courts of Appeal "appellate jurisdiction

when superior courts have original jurisdiction and in other causes prescribed by statute." Id.

The power of the Court of Appeal is "in reviewing order. . . ." (Sunray Mid-Continent Oil Company v. Federal Power Commission (1957) 353 U.S. 944, 77 S.Ct. 792, at p. 792)[26]

There was no a CCP §391.1 motion to declare Appellant a VL.

2. CRIMINAL SPENCER WILFULLY DEPRIVED APPELLANT'S CONSTITUTIONAL AND FEDERAL RIGHTS

Several disqualifications were filed prior to the August 12, 1993 decisions. None of defendants responded the disqualifications. Accordingly, they were disqualified prior to August 12, 1993.

In or about November, 1993, attorneys Fleischer, Yang and Crofoot filed or pursued federal complaints against Justices of Division One and Division Five for the causes of action above.

In retaliation of the disclosure of their bribery, corruption, collusion, forgery, perjury and kidnapping for ransom, CD issued two published decision of December 16, 1993 and January 31, 1994 as public responsive pleadings. Appellants were wilfully deprived their fundamental right to have their cases determined by neutral and detached

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[26] As an appellate court, the function of the court of appeal is to review and correct the existed orders, decisions, and judgments of the trial court; its function lies on guaranteeing the trial court to correctly, faithfully and diligently execute the law. That is why the trial court has original jurisdiction and the appellate court has a very limited original jurisdiction.

In this instant case, there is no "habeas corpus proceedings" or "proceedings for extraordinary relief" as stated in the Federal Power Commission case. Id., at 782. The very circumstances set by law were not satisfied in the present case. Thus Division Five cannot replace and act as trial court, exceeding its jurisdiction and invading the trial court's jurisdiction by issuing the Order to Show Cause and the published decision.

justices[27].

The First Amendment Rights, right to counsel, right to access to the courts, and other rights were wilfully deprived by Criminal Spencer[28].

B. CRIMINAL SPENCER DID NOT SERVE ORDER TO SHOW CAUSE UPON APPELLANTS

Both Shieh and HKST are residents of Taiwan. Criminal Spencer failed to serve her purported order to show cause ("OSC") upon appellants in accordance with the provisions of the Hague Convention ("HC"), and the "Treaty of Friendship, Commerce, And Navigation Between the Republic of China and The United States of America" ("FCN Treaty"). Both HC and FCN Treaty are supreme law of land. U.S. Constitution. Article VI, Section 2.

Failure to comply with the HC procedures void the service, even though it was made in compliance with California law, and even though the Plaintiff has actual notice of the lawsuit. Dr. Ing. H.C.F. Porsche, A.G. v. Sup. Ct (1981) 123 CA3d 755, 177 CR 155.

C. CD SPENCER'S DECISIONS ARE RETROACTIVE, WHICH CONSTITUTE EX POST FACTO, AND BILL OF ATTAINDER, AND VIOLATE DUE PROCESS OF LAW

CD Spencer's, and her conspirators' bribed decisions were

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[27] Concrete Pipe v. Pension Trust (1993) 113 S.Ct. 2264; 124 L.Ed 2d 539, 560, Madison Anderson v. Walter Sheppard, (1988) 865 F. 2d 741, Marshall v. Jerrive, Inc. (1980) 446 U.S. 238, 100 S.Ct. 1610. Boddie v. Connecticut (1971) 401 U.S. 371, 91 S. Ct 780, Powell v. Alabama (1932) 287 U.S. 45, 53, 53 S. Ct. 55.

[28] See discussions and cases in III, infra.

applied retroactively[29] to all actions done prior to August 12, 1993, constitute ex post facto and bill of attainder[30], and violate due process of law[31]. The decision is unconstitutional. The same decision was also used to "create new crime", to increase punishment and to reduce required evidence, and is thus unconstitutional. U.S. Constitution, Art. I, §10, Miller v. Florida, 482 U.S. 423 (1987).

D. CRIME GROUP HAVE NO AUTHORITY TO REPRESENT THEIR PURPORTED CLIENTS

On March 29, 1994, both KKK Kaufman and CRIME Highberger admitted that Criminal Highberger had/has no authority to represent their purported clients OMM and GDC. Thus, all purported decisions of the defendants must be declared as void for lack of representation. Moreover, all partners and associates of GDC and OMM admitted that they did not authorize CRIME Highberger to act.

E. IN RE SHIEH IS NOT RES JUDICATA AND IS STILL PENDING BEFORE CALIFORNIA SUPREME COURT, BEFORE THE TAIPEI CRIMINAL AND CIVIL COURTS

In Los Angeles Branch NAACP v. L.A. Unified Sch. Dist., 750 F.2d 731, 737 (9th Cir., 1984), the 9th Cir. held admitted

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[29] See e.g., Allied Structural Steel Co. v. Spannaus, 438 U.S. 234 (1978), United States Trust Co. v. New Jersey, 431 U.S. 1 (1977).

[30] See, e.g., United States v. Brown, 381 U.S. 437 (1965).

[31] It impairs substantial, contractual rights and is unreasonable in the circumstances.

that res judicata does not apply to the following situations, as in this case:

1). Plaintiffs did not have a "full and fair" opportunity to litigate in the first action. Id, at 732, 734;

2) there was "manifest injustice[32]" in giving preclusive effect to the state court judgment. Id, at 732;

3) act occurred after the close of trial in the state court action;

4) new rights[33] acquired pending action which might have been litigated but which were not required to be litigated. Id, at 733;

5.) events occurring after filing of complaint.[34];

6) 1990 new version of VLS is not retroactive[35];

7) non-final judgment[36]; 8) judgment not on the merit[37]; 9)

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[32] Only Caucasian lawyers can file whatever papers they want to in violation of "stay", but no one send Crook Highberger to jail. Instead, Spencer and Kaufman gave Highberger near $1 million dollars sanctions simply because Highberger bribed them. Plaintiffs had no right to defend when they were defendants. See FJ case, Hollinsworth v. Highberger, Kakita, Spencer, & Turner MAF Corp., et al, Castellano v. Highberger, Kakita, Spencer, & Turner MAF Corp., et al, Ivy Hollingsworth v. Highberger, Kakita, Spencer, & Turner MAF Corp., et al, Rusch v. Highberger, Kakita, Spencer, & Turner MAF Corp., et al.

[33] Many new rights were accrued after In Re Shieh case.

[34] Many events occurred as fully stated in the amended complaints.

[35] CCP §3 provides: "No part of it is retroactive, unless expressly so declared."

[36] None of California purported judgments are final. They are pending in Municipal Courts ("MC"), Superior Court ("SC"), California Court of Appeal ("CCA"), and California Supreme Court ("CSC").

different parties; 10) different causes of action[38].

In all cases Spencer and Turner were acting as "parties" in the non-judicial bribery situation[39].

However, the following cases held somewhat differently. See Allen v. McCurry 449 U.S. 90, 96 (1980), Worldwide Church of God v. McNair, 805 F. 2d 888 (9th Cir., 1986), and Migra v. Warren City School Dist. Bd. of Ed. (1983) 465 US 75. This court should unify the conflicting decisions of the above cases.

F. ALL REQUIREMENT FOR RES JUDICATA ARE MISSING

A federal action may be barred by the doctrine of res judicata where an earlier lawsuit (in federal or state court):

- involved the same claim as the present suit;
- reached a final judgment on the merits; and
- involved the same parties or their privies. [Blonder-Tongue Laboratories v. Univ. of Ill. Found. (1971) 402 US 313, 323-324; Nordhorn v. Ladish Co., Inc. (9th Cir. 1993) 9 F3d 1402]

None of the requirements is satisfied here.

In Matter of Meyerland Co. (5th Cir. 1992) 960 F2d 512, 516-

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[37] CCP §391.2 clearly provides that "No determination made by the court ... shall be or be deemed to be a determination of any issue in the litigation or of the merits thereof." Thus, none of the decisions of the California courts based on the VLS or the pre-filing order, is a determination of "any issue" or of "merits."

[38] All causes of action here are different from all cases in the state courts. plaintiffs request this court to take judicial notice to that effect.

[39] CCP §391.7 prohibits defendants from acting as "parties" even if they have accepted bribery.

held that "Rooker-Feldman" not applicable to lower court orders still subject to direct review. first, there is no review by the lower courts because of the pre-denial order. Second, none of the decisions is final. Thus, this court has subject matter jurisdiction upon this action.

G. DEFENDANTS ACTED IN EXCESS OF JURISDICTION

Res judicata is not applicable as the policy against courts acting in excess of their subject matter jurisdiction is so strong that later attack may be permitted where, as here: 1) The jurisdictional issue was not actually litigated; and 2) The issue is one of law, rather than of fact; and 3) The court's lack of jurisdiction is "clear," and the policy against permitting the court to act beyond its jurisdiction is "strong." [See 2 Witkin, Calif. Procedure 3d, Jurisdiction §§281, 282]

As stated above, it is clear that none of the California courts have subject matter jurisdiction and no original jurisdiction to render the orders in the three published decisions and all subsequent decisions. Lack of subject matter jurisdiction may be raised by either of the parties; or by the court on its own motion. [Chromy v. Lawrance (1991) 233 CA3d 1521, 285 CR 400, 403-appellate court raised sua sponte].

H. PLAINTIFFS ARE NOT IN PRO PER AND CANNOT BE AS CO-COUNSEL WITH THEIR ATTORNEYS

The following definitions of the USDC for the Central District Local Rules prove that it is absolutely impossible for plaintiffs to be

in pro per, when they have been represented by at least two lawyers at all times, and to be co-counsel with their lawyers, when they have done nothings in the litigation except the regular consultation and signing the declarations prepared by their lawyers.

1. U.S. District Court for Central District Local Rules 2.2.3.4: "Designation of Co-counsel. A judge to whom a case is assigned may, in the exercise of discretion, require the designation of an attorney who is member of the Bar of this Court and who maintains an office within the District as co-counsel with authority to act as attorney of record for all purposes."

2. Rules 2.8.1.

"Appearance by Attorney. Whenever a party has appeared by an attorney, the party may not thereafter appear or act pro se, except upon order made by the Court after notice to such attorney and to any other parties who have appeared in the action."

See also 9th Cir.'s 6/12/95 decisions that once a party is represented by a lawyer, he cannot file any paper. Any paper filed will not be considered. 1 ER 85.

CONCLUSION

For the reasons set forth above, a writ of certiorari should issue to review the judgments and opinions of the Court of Appeals and the United States District Court in this matter[40].

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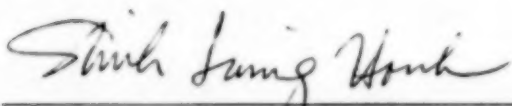
[40] If this court elects not to address the issues presented in this writ at the present time, it is requested that the writ issue and that the matter be remanded to the Court of Appeals for redetermination of all issues stated in the questions presented.

DATED: January 19, 1996

Respectfully submitted,



Law Offices of Shieh Liang-Houh
Attorney For Petitioners

Law Governing Extension of Assistance to Foreign Courts

Promulgated and effective on April 25, 1963

Article 1

Unless otherwise specifically stipulated by treaty or other law, the courts of the Republic of China shall upon request render assistance to the foreign courts in handling civil or criminal cases in pursuance of this law.

Article 2

Such assistance shall not violate the statutes and ordinances of the Republic of China.

Article 3

The substance of each case commissioned by a foreign court shall be stated in writing and transmitted through diplomatic channels.

Article 4

The foreign country where the foreign court requests for an assistance from the court of the Republic of China must state that it would provide a reciprocal assistance if a court of the R.O.C. requests for an assistance under the same or similar circumstance.

Article 5

The court of the Republic of China which is requested by the foreign court to extend an assistance to the foreign court concerning the service of process of a civil or criminal pleading

document shall conduct the service of process in accordance with the Code of Civil Procedure or the Code of Criminal Procedure.

Each foreign court requests for the assistance from the court of the Republic of China shall set forth in its commission power of attorney the name, nationality, and domicile, residence, or office address, business address of the person to be served.

Article 6

Each court shall effect discovery [investigation of evidence] according to the theme of the foreign court's commission and in accordance with the provisions governing the discovery under the Code of Civil Procedure and the Code of Criminal Procedure.

Each foreign court requests for the assistance from the courts in the Republic of China for the discovery shall, in its commission, set forth the names of the parties, the device of discovery [kinds of evidential methods], the names, nationality, domicile, residence, or office address, business address of the responding party or third party, and set forth the matters subject to the discovery to be investigated. If it is a criminal case, a summary of the criminal case shall be attached.

Article 7

If the commission power of attorney requesting for the assistance from the courts of the Republic of China and other relevant documents of a case are in a foreign language, true Chinese translations shall be attached with a certificate that the translation is true and correct.

Article 8

The fees for the service of process or discovery in a civil case shall be those provided by the relevant laws of the Republic of China concerning such fees. The fees for the service of process or discovery in a criminal case are the actual fees spent by the courts of the Republic of China and shall be reimbursed by the country of the foreign court which requests for the assistance.

Article 9

This law shall come into force from the date of its promulgation.

[c:\lt\g\exte]

Pasadena, CA 91106, U.S.A.

Male, USA
Born: November 10, 1960

Criminal Defendant 6. Andrew Castellano
1004 Arroyo Drive, No. 2
South Pasadena, CA 91030, U.S.A.

Male, USA
Born: April 7, 1934

Criminal Defendant 7. Wesley Allen Rusch
837 Traction Avenue
Los Angeles, CA 90013-1840
U.S.A.

Male, USA
Born: October 2, 1956

Criminal Defendant 8. Francisca Noemi Araiza
3852 E. Colorado Blvd.
Pasadena, CA 91107
U.S.A.

Female, USA
Born: January 29, 1960

Criminal Defendant 9. Paul A. Turner
300 S. Spring Street
Los Angeles, CA 90013
USA

Male, USA
Born: January 12, 1947

Criminal Defendant 10. Jerold A. Krieger
111 N. Hill Street
Los Angeles, CA 90012-3117
USA

Male, USA
Born: December 12, 1943

Criminal Defendant 11. David V. Kenyon,
312 N. Spring Street
Los Angeles, CA 90012, USA

Male, USA
Born: September 10, 1930

Criminal Defendant 12. C. Bernard Kaufman
24701 Guy Road
Hidden Hills, CA 911302
USA
Tel: 818-888-8896

Male, USA
Born: November 27, 1927

The Criminal Defendants[4] herein have jointly and severally committed using false business records, using forged documents, kidnapping for ransoms, forgery and alteration of the stock certificates, extortion, blackmail and intimidation, defamation, using forged and altered evidence, burglary, larceny and theft, infringement of credit, revealing the secrets of another, unfair competition, et al. The Criminal Defendants are hereby indicted pursuant to the laws.

I. The Statement of the Background of Crimes Committed by the Criminal Defendants.

(1) This case was originally investigated by the Offices of the Public Prosecutors (1995, investigation no. 2669, originally assigned to Division "Yang" and now, in Division "Lai"). The Public Prosecutor recommended that this case be prosecuted by the Prosecutor herein. This court is hereby requested to transfer the investigation files from the Offices of Public Prosecutor to this court to avoid the repetition on the investigation of the same evidence.

(2) To become a lawyer and a judge in the United States is very easy. The annual passing rate is approximately 90% nationwide. Despite of the fact that there are many bad schools in the State of California, the annual passing rate for the bar examination in the State of California is approximately 77% (Evidence 1). Approximately one-third ("1/3") of the judges in the Los Angeles area are graduates of such bad schools. The law graduates of the top ten law schools can be hardly found. The legal and moral quality of the American lawyers and judges differs one from another. The American judges are elected and appointed through the large law firms and the special interest groups behind the scene. Most judges are used and controlled as the instrumentalities by the

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[4] Hereinafter individually cited as "CD" and collectively cited as "CDs".

large law firms. (American lawyer Haddix's testimony in the investigation files). The judges herein lost their independence completely. The judges or their clerks simply stamp or sign, without any change, of the decisions and orders prepared by the Caucasian lawyers, and become the civil and criminal decisions and orders pursuant to their purpose of "complete control" and "interest transfer". (American lawyer Andion's testimony in the investigation files). Caucasian judge Phillip Cox admitted: "This is an unusual case where they've extended it [vexatious litigant statute] to them when he [Shieh] has an attorney representing him. As I tell you, they are my bosses, and I can't overrule the[m][5]." (The transcript of the proceeding will be submitted later). The American Caucasian lawyer Richard R. Hopkins admitted that when Shieh and his lawyers are before the courts in the Los Angeles area, they are "like a Jew in the Nazi Germany". (Evidence 2). In the "Nazi court", "every motion or every opposition made" by Criminal Defendants herein "is gospel truth and everything that I say is not[6]." (The transcript of proceeding ["TP"] will be submitted later). In this most outrageous and most ridiculous Los Angeles area, where there is no law at all, the Criminal Defendant no. 12 C. Bernard Kaufman directly and indirectly admitted in his last day of the proceedings before his retirement: "Everything we're saying here is going on the record, but obviously my mind does question things, but things that happen, things that happen, I can't change them, so I'll let it go[7]." (TP will be submitted later). One who is corruptive, is in violation of the law, is in violation of the duty, is capable of committing crimes under the sun, "his words are true, when he will soon retire."

(3). The gross income of the Prosecutor often reaches several million United States Dollar per year because he is licensed to practice law in Taiwan and in the US, and because he received the J.D. and J.S.D. degrees from the Yale University. The Criminal Defendants are those who became bad judges and bad lawyers through the above process. They engaged in unfair competition and in destroying Prosecutor's clients' basis. They conspired with judges

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[5] The above languages are quoted "word by word" from the transcript of the proceeding in Highberger, Kakita, Spencer & Tuner Mafia Ct., et al v. David, et al dated December 7, 1993 in the Superior Court of the State of California for the County of Orange.

[6] The word by word quotation of the transcript of proceeding in Highberger, Kakita, Spencer & Turner MAF Corp., et al v. Highberger, et al and Highberger, Kakita, Spencer & Turner MAF Corp., et al v. Castellano, et al, dated April 22, 1995, at 8, lines 15-17.

[7] Word by word quotation from the TP in the above two cases, dated April 22, 1995, at 14, lines 11-14.

to "corrupt, violate the law, violate the duty" and to extort Prosecutor to pay them the alleged US$1 million bribes or illegal money. They conspired with each other to commit blackmail, extorsion, kidnapping for ransoms, and put Prosecutor in the "false lights" completely. The winning rate was 100% (the Affidavit of Percy Chien will be submitted later) or near 100% when the Prosecutor represented his clients in the United States. Nevertheless, the Criminal Defendants committed forgery, forged and altered the evidence, forged the courts' decisions and lied to the world that (1) Prosecutor has no attorney representing him (in fact, the Criminal Defendants have never seen Prosecutor in the court representing himself, and the Prosecutor was represented by lawyers) and (2) Prosecutor's cases are completely without merits in law and in fact. Criminal Defendants corrupted with judges not to review the civil and criminal cases of the Prosecutor and his clients, to automatically dismiss their cases or to automatically rule against Prosecutors and his clients (Affidavit of Percy Chien will be submitted later). In order to take away all of Prosecutor's clients, Criminal Defendants conspired with each other and completely prohibited Prosecutor from filing the "complaints", "cross-complaints", "motions" and "appeals", et al. (Evidence nos. 2 to 5). Those who did not abandon Prosecutor's cases were either punished or sentenced to jail without any factual and legal basis. (See the testimonies of Hopkin [sic][1] and Andion before the Offices of the Public Prosecutors). Criminal Defendants "secretly" forged documents and put Prosecutor in an involuntary inactive enrollment ["IIE"] without serving Prosecutor properly and legally in order to take away all of Prosecutor's clients. Criminal Defendants then shared the profits from the taking of Prosecutor's clients' money and benefits.

II. The Facts and Evidence of the Crimes

(1) Using False Business Records

1. Criminal Defendant Highberger recorded false information that Prosecutor is not a member of the United States court (alleged Counsel ...) in his business documents in Evidence nos. 24, 25 and 23. Criminal Defendant Highberger also made such false statement before the federal court (See Evidence 8, lines 22 to 24). In fact, Prosecutor was admitted to practice before the United States District Court for the Central District of California (This can be proved from Evidence 9, page 2, the Certificate of Admission. The fact of the admission is a public record. Anyone can obtain such information). Criminal Defendant Highberger further recorded false information in Evidence 5, line 10 and Evidence 6 and 7, line 9 that the Prosecutor's papers submitted to the court

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[1] Due to the clerical error, the word "Hopkin" should be "Haddix". Both words are very similar when translated into Chinese.

as "without merit and frivolous." The federal court did not use such words in making that decision. Criminal Defendant Highberger knows the allegations are not true, but nevertheless recorded such falsity in his business records and distributed them to Taiwan (this can be proven from Evidence nos. 5, 6 and 7, the last page, the names and addresses on the service list) in order to injure Prosecutor. Criminal Defendant Highberger is suspected to commit Article 216 of the Criminal Code.

2. Pursuant to Evidence 10, page 2, lines 9-11, Criminal Defendant Highberger deceived that Prosecutor represented Criminal Defendant Highberger without his authorization, et al. In fact, Prosecutor has never stated that he represented this criminal, how could the issue of authority come into play? In Evidence 27, Criminal Defendant Highberger falsely recorded in his business records that his pleadings were mailed to the Prosecutor in Taiwan by his secretary Geri D. Hollins on April 12, 1995 with postage fully prepaid (See Evidence 10, page 3, lines 8 and 18 and page 4, lines 6-7). Evidence 10 is a copy of the envelop which shows that the mailing date was in fact April 18, 1995 and the postage is insufficient (at least US$6.00 is required for the international mail with such weight). This is another evidence of using false business records.

3. Criminal Defendant Highberger and other Criminal Defendants in their business records submitted to the American courts recorded that Prosecutor was litigating his cases without lawyers (i.e., In Pro Per, see Evidence 2, Criminal Defendant Highberger recorded such words in many places in that pleading). The Fact that Prosecutor was represented by lawyers in all his cases was proved by the court's files (the counsel for the Prosecutor is shown on the upper left corner of the pleadings in Evidence 11, 21) and by the declarations of Richard R. Hopkins and James L. Andion. On May 12, 1995, Lance Haddix, Esq. also testified the same and confirmed the truth of the declarations of Richard Hopkins and James L. Andion. (Evidence 12). Accordingly, the false business records recording that Prosecutor was in pro per and was satisfied with all requirements under the §391(b) of the California Code of Civil Procedure ["CCP"] for a "vexatious litigant" are contrary to the facts. Criminal Defendant knew that the above are false, but nevertheless wilfully, maliciously and intentionally recorded such falsities in their business records. Criminal Defendant used such false business records and used the State Bar of California ["SBC"] and courts as their instrumentalities (Criminal Defendant Spencer delivered such false business records to the State Bar of California, and in turn delivered the same to Taiwan) in order to injure and harass Prosecutor (this can be proved from the fax and envelop in Evidence 13). It is clear that Criminal Defendants have committed the above crimes.

4. Moreover, Honorable Judges Dickran Tevrizian and Mariana R. Pfaeizer of the United States District Court for the Central District of California had never declared Prosecutor as a vexatious litigant. At that time, there was no vexatious litigant statute, rule or law under the federal system. This fact can be proved from Evidence 4 and 21 which consist of the decision of the federal court and from the testimonies of Lance Haddix and James L. Andion before the Offices of the Public Prosecutors. Under American case law, a plaintiff can legally refile the same claims in the state court when the federal court declines to exercise the supplemental jurisdiction and dismisses the state claims (Evidence 18). When the court dismisses a case for lack of prosecution, plaintiff can legally refile the same claims (Evidence 19). Prosecutor's clients' and relatives' cases are not his cases in pro per. This can be proved from the testimonies of President Wang of the Ching Luen Enterprises Co., Ltd. and President Chien of the PSJ Corp., as well as Evidence 4, 23. It is more than clear that Criminal Defendants wilfully, maliciously and intentionally used forged documents, used forged and altered evidence and used false records.

5. Criminal Defendants conspired with each other to circulate the above false documents in the United States and in China [Taiwan] in order to injure Prosecutor's reputation. Criminal Defendants further conspired to put Prosecutor in an involuntary inactive enrollment ["IIE"] (Evidence 19). Criminal Defendants conspired with the judge of SBC to throw away Prosecutor's pleadings, to refuse to file such pleadings or enter them into evidence, but to enter the "default judgment" against Prosecutor. Judge [Robbins] admitted such crime. A copy of such false records were delivered to the non-parties Steedman and Batchelor (cc: Donald R. Steedman Cydney Batchelor), who in turn delivered such false records to Criminal Defendant Highberger, et al, and Criminal Defendants in turn delivered the same to places in Taiwan. As a consequence, Prosecutor is unable to continue to represent his clients on the ongoing cases and to represent his new clients in Taiwan and all places in the world. The court should punish Criminal Defendants with such crimes in accordance with the laws.

(2). Criminal Defendants Jointly And Severally Used The Forged Documents

1. Criminal Defendants nos. 3, 4. 5, 6, 7 & 8 were in pro per (see the upper left corner of Evidence 3 and other evidences to be submitted later) and did not spend any money for the attorneys fees. They conspired with Criminal Defendants nos. 1, 2, 10 & 12 Kaufman, et al to forge the documents, to forge and alter evidence, to record false information, to request Prosecutor to pay them approximately US$1 million attorneys fees and to post US$47 million attorneys fees as bond as a condition to process the case. Criminal

Defendants used such documents to put Prosecutor in an IIE (Evidence 4, last page, Evidence nos. 19, 20). The above ridiculous decisions are void and null in their face and thus, no effect upon Prosecutor. However, Criminal Defendants conspired with SBC and judges to form a group for the purpose of criminal extortion for ransoms so as to collect all severally million US$ of profits and benefits per year and to discriminate against Prosecutor on the basis of race, color and national origin. The Superior Court of the State of California ["SC"] and the United States District Court for the Central District of California ["USDC"] (Criminal Defendants nos. 2, 10, 11 & 12) expressly stated that they would not review Prosecutor's cases and would rule against Prosecutor anyway. The Court of Appeals of the State of California, [Second Appellate District] ["CCA"] (Criminal Defendants Nos. 1 & 9) expressly stated that they would not review any of Prosecutor's appeals and writs of mandate/prohibition. They ordered the lower courts to dismiss all Prosecutor's cases (Evidence 4, the second to the last page) unless over US$300,000 (which is, in fact, bribes since no attorneys fees were spent) is collected from Prosecutor before the dismissal of Prosecutor's cases. The Supreme Court of the State of California ["CSC"] has never accepted Prosecutor's cases for review. The above facts were admitted by Criminal Defendants 1, 2, 9, 10 & 12, were testified by Haddix and Andion, attorneys at law, were proved by the declaration of Richard R. Hopkins and by the affidavit of Haddix signed before the notary public of the Taipei District Court (Evidence 4, 12, California judges ruled against Prosecutor even before reviewing the pleadings). Criminal Defendants corrupted with judges in order to deprive Prosecutor of all his constitutional and federal rights and to take away Prosecutor's clients and money.

2. Criminal Defendants no. 3 Highberger and no. 5 Hollingsworth forged other parties' pleadings for the signature of the federal judges (Evidence 21 proves that Highberger and Hollingsworth did not have authority to represent others; In evidence nos. 5, 6, 7, first page, line 18, the circled portions prove that they forged such authorities, the same as Evidence 23).

3. Other Forged Documents Will Be Submitted Later.

(3) Defamation

1. All Criminal Defendants repeatedly defamed Prosecutor as a "vexatious litigant" (Evidence 3, 4 and 10, page 2, Evidence 19, page 3).

2. Criminal Defendant no. 3 Highberger defamed Prosecutor as "the corporation's alter ego", and defamed Prosecutor using "corporate shell to sue." (Evidence no. 19, pages 2 & 3 the circled

parts).

3. Once the documents stated in this case were delivered to the California government (Evidence 19), and federal government (Evidence 20), the federal courts or California courts (some evidence in this case), the documents become "public records" that anyone can copy and review the documents. Criminal Defendants wilfully and intentionally published, circulated and used the documents in Taiwan. As a matter of fact, Criminal Defendants have published, circulated and used such false documents and forged documents in Taiwan. (Evidence 13 & 19, page 3, the upper left corner).

(4). Larceny And Theft

1. Criminal Defendant no. 3 Highberger and Criminal Defendants nos. 4 and 5 admitted that they conspired with a lawyer in Taiwan to steal Prosecutor's documents (including the file copy of the bills issued to the First Commercial Bank and the Medium Business Bank of Taiwan). This can be proved from Criminal Defendant Highberger's declaration and the documents stolen (Evidence 23 and 24).

2. Other stolen documents and goods are under investigation.

(5). Extortion And Blackmail For Ransoms

1. Criminal Defendants conspired with each other to extort and coerce Prosecutor to pay them over $450,000.00 bribes or illegal ransoms. Mr. Hopkins can prove it.

2. Criminal Defendants used the "disciplinary proceeding of the State Bar Court of the State Bar of California" as an instrumentality to extort, coerce, blackmail and intimidate Prosecutor and his lawyers to pay them and judges approximately US$1 million as bribes or illegal ransoms. Because Prosecutor has not yet paid, they put Prosecutor in IIE. (Evidence 19). The lawyers of Prosecutors are subject to disciplinary proceedings. Mr. Haddix testified this before the Offices of Public Prosecutors.

(6) Offenses Against Credit And Offenses For Revealing Business Secret

As well, Criminal Defendants' above crimes constitute the

offenses against Prosecutor's credit and reputation under Article 313 of the Criminal Code, and the Offenses for revealing business secret under Article 316 of the Criminal Code as well as the violation of the Laws Governing the Unfair Competition And Anti-trust.

(7) Kidnapping For Ransoms And Conspiracy For Kidnapping For Ransoms

1. Except Criminal Defendant no. 11, all Criminal Defendants conspired with each other and kidnapped Prosecutor for seven days from February 10, 1994 (Chinese New Year) through February 16, 1994.

2. Third party conspirator Batchelor (the instrumentality of Criminal Defendants) admitted on March 9, 1995 that she contacted with a lawyer in Taiwan to follow Prosecutor's whereabouts in order to kidnap Prosecutor.

(8) Forged and Altered Stock Certificate

It appears that Criminal Defendants forged, altered stock certificates of the "Highberger, Kakita, Spencer & Turner MAF Corp." or "Say & Say" and falsely stated that the corporation is "owned and controlled solely" by Prosecutor.

(9). Used Forged, Altered Evidence.

It appears that Criminal Defendants have used the above forged, altered evidence.

III. The Crimes Were Committed In Taiwan And Taiwan Has Jurisdiction Over These Crimes

(1). Criminal Defendants nos. 3, 4 & 5 admitted that they conspired with a lawyer in Taiwan, stole Prosecutor's documents, defamed Prosecutor and delivered the false business records and forged documents to that lawyer in Taiwan (Evidence nos. 4, 19 & 20) and others (Evidence 25). The place of stealing and the place of using the false business records and forged documents are in Taiwan.

(2) All evidences stated herein were used by Criminal Defendants in Taiwan. The envelops and the declarations of Highberger are supporting evidences. (Evidence nos. 13 and 24).

(3). Criminal Defendants wilfully and intentionally refused to keep these documents as "confidential", but revealing them as "public documents", as well as circulated and used in the public (including Taiwan). (Evidence nos. 4, 5, 6, 7, 10, 19).

(4). Criminal Defendants extorted, blackmailed and intimidated

Prosecutor in Taiwan through international telephones, international faxes and international mail, all reached Taiwan.

(5). The commission of the kidnapping for ransoms is punished by death under the Law Governing the Punishment Against Robbery And Related Crimes, and is punished by death, life imprisonment or at least seven years imprisonment. Both are the cases which have the least punishment of three years under Article 8 of the Criminal Code. The courts of the Republic of China ("ROC") has jurisdiction. Criminal Defendants conspired with a lawyer in Taiwan to attempt to kidnap Prosecutor, in the second time, the place of crimes is also in Taiwan. The court of the ROC has jurisdiction. (Article 4 of the Criminal Code).

(6). Criminal Defendants forged, altered the stock certificates, the court of the ROC have jurisdiction. (Subsection 4 of Article 5, and Article 201 of the Criminal Code).

(7). Criminal Defendants conspired each other and shared their crimes performances. Their commissions of crimes are continuous and repetitive. They shall be punished for all crimes conspired. (See Evidence 25, our country's precedents and the resolutions of the meetings).

IV. The judges of our country are the best among thousands of people. Their legal and moral quality is far better than American judges. Handling the foreigners' and Caucasians' criminal cases shall be the same as handling the domestic criminal cases, without any exception. In order to protect the judicial independence and our country and to protect our people's rights and privileges, Prosecutor respectfully requests this court to punish Criminal Defendants so as to punish the illegality and to support the public trust to our judiciary. Respectfully submitted to the Offices of Public Prosecutors [sic][9] of the Taipei District Court.

Evidence: See the Evidence List

Dated: August 2, 1995

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[9] Due to clerical error, it should be the "Criminal Court."

一、[illegible]	Vaino Hassan Spencer (Finnish)	女	一〇〇二七九		米國	300 SOUTH SPRING STREET,LOS ANGELES,C.A. 90013 U.S.A				
二、[illegible]	EDWARD Y. KAKITA (日本姓)	男	一〇〇一八五九		米國	111 NORTH HILL STREET,LOS ANGELES,C.A. 90012 U.S.A				
三、[illegible]	WILLIAM FOSTER. HIGHBERGER (德國姓)	男	一〇一五五九		米國	333 SOUTH GRAND AVENUE,LOS ANGELES,C.A. 90071 U.S.A				

第一區

四、[illegible]	Ivy Tak Lin	女	四九		大陸	1122 Green Stree		
	e Yuen (文姓		〇七			t Pasadena C.A.9		
	.筱)		〇八			1106		
						U.S.A.		
五、[illegible]	Gerald Varno	男	四九		米國	1122 East Green		
	Hollingswort		一一			Street Pasadena,		
	h ([illegible] .[illegible]		一〇			CA 91106 USA.		
	L[illegible]							
	[illegible]							
六、[illegible]	Andrev Caste	男	一一一一		米國	1004 Arroyo Driv		
	llano ([illegible]		〇四			e, No. 2. S. Pas		
	[illegible] .[illegible]		〇七			adena		

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生日：民國45年2月18日 (1956)

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生日：民國16年12月3日 (1927)

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11．死泥

Joseph T. Sneed

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12．不耳

Cecil F. Poole

住址同九

生日：民國2年7月25日（1913）

美國

13．薄狼泥踢

Melvin Brunetti

住址同上

美國

14．邊雜

Robert R. Beezer

住址同上

男，美國

15．湯不散

David R. Thompson

住址同上

生日：民國19年12月26日（1930）

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16．泥耳散

Thomas G. Nelson

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		I)					

SUPREME COURT OF THE UNITED STATES

95–7587 LIANG-HOUH SHIEH
v.
EDWARD KAKITA ET AL.

95–7588 LIANG-HOUH SHIEH
v.
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

95–7589 LIANG-HOUH SHIEH
v.
JEROLD KRIEGER ET AL.

ON MOTIONS FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Nos. 95–7587, 95–7588 AND 95–7589. Decided April 1, 1996

PER CURIAM.

In these three petitions for certiorari, *pro se* petitioner Liang-Houh Shieh requests leave to proceed *in forma pauperis* under Rule 39 of this Court. We deny his requests pursuant to Rule 39.8. Shieh is allowed until April 22, 1996, within which to pay the docketing fees required by Rule 38 and to submit his petitions in compliance with this Court's Rule 33.1. We also direct the Clerk not to accept any further petitions for certiorari from Shieh in noncriminal matters unless he pays the docketing fee required by Rule 38 and submits his petition in compliance with Rule 33.1.

Shieh has abused this Court's certiorari process. In March 1996, we invoked Rule 39.8 to deny Shieh *in forma pauperis* status. See *Shieh* v. *State Bar of California*, 516 U. S. ___. To date, Shieh has filed 10 petitions in this Court in less than three years. All

have been both patently frivolous and denied without recorded dissent.

We enter the order barring prospective filings for the reasons discussed in *Martin* v. *District of Columbia Court of Appeals*, 506 U. S. 1 (1992). Shieh's abuse of the writ of certiorari has been in noncriminal cases, and so we limit our sanction accordingly. The order will not prevent Shieh from petitioning to challenge criminal sanctions which might be imposed against him. The order will, however, allow this Court to devote its limited resources to the claims of petitioners who have not abused our certiorari process.

It is so ordered.

JUSTICE STEVENS, dissenting.

For the reasons I have previously expressed, I respectfully dissent. See *Jones* v. *ABC–TV*, 516 U. S. ___, ___ (1996) (STEVENS, J., dissenting); *Attwood* v. *Singletary*, 516 U. S. ___, ___ (1996) (STEVENS, J., dissenting); *Martin* v. *District of Columbia Court of Appeals*, 506 U. S. 1, 4 (1992) (STEVENS, J., dissenting); *Zatko* v. *California*, 502 U. S. 16, 18 (1991) (STEVENS, J., dissenting).